IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.3392 OF 2004

Mulund Ambe Maiya Co.op.Hsg.Socy.Ltd. Petitioners
vs.
Union of India & ors. Respondents

Mr.Aditya Chitala for the petitioners.

Mr.Rajiv Chavan with Ms.A.S.Kaushik for the respondents.

CORAM : F.I.REBELLO &
ANOOP V. MOHTA,JJ.

DATED : 9th October, 2006

P.C.

Rule. Heard forthwith.

2. A cooperative society had deposited with the respondents monies in Kisan Vikas Patra (KVP). Initially money was invested in October 1992 and March 1993. After the maturity value was paid, the amount was reinvested. According to the petitioners they were induced to do investment by the respondents. That is not material for our consideration. The amount was again reinvested in the year 1998. On the expiry of the period, the petitioners sought to encash the amount in December, 2003. At this point of time they were informed that there was amendment to the KVP rules and that certificates could not be issued in favour of a trust, but only in favour of an individual. This was

not brought to the attention of the petitioners at the time they had invested the money or at any subsequent time so as to enable them to withdraw the amount. The amount continued to be invested.

3. Pursuant to the order of this Court dated 11th September, 2006 the respondents have deposited the maturity value.

4. On behalf of the petitioner, the learned counsel draws our attention to a judgement of the learned Bench of this Court in the case of **Romeo Sam Arambhan vs. Union of India, (2003) 132 Taxman 131 (Bom.)**, whereby this Court refused to entertain the petition and directed the parties to file a Suit. The very same objections were raised over here which were raised in that petition. The learned Bench after considering the provisions held that it was for the issuing authority to have verified whether Form No.I through which application was made by the petitioners for purchase of certificates are proper or not and after giving some other reasons, made the petition absolute thereby allowing the petition.

5. This judgment was delivered on July 21, 2003. Another learned Division Bench to the order passed on 25.8.2003 in **Varghese George, Proprietor of M/s.Joy**

Construction Company vs. Union of India & ors., in Writ Petition No.1683/2003 held that petition was not maintainable. In the Review Petition filed the attention of the learned Bench was invited to the earlier judgment of this court. All that the learned Bench said was that the judgment of the earlier Bench did not take into consideration that there was alternative remedy available.

6. We are unimpressed by the arguments of alternate remedy. It ill behoves respondent-State to raise such pleas in a case where there are no disputed questions of fact. The only issue is whether the petitioners herein were entitled to the monies to which they are claiming along with interest. We are clearly of the opinion that the respondents cannot enrich itself at the cost of the citizen who invested the monies in their scheme and was not informed on that date or subsequently till the amount matured that amount could not be invested. In these circumstances, like other depositors the petitioners also should be entitled to the same interest which the respondents were giving to the individuals.

7. In the light of that, we allow this petition by declaring that the petitioners are entitled to the principal amount along with interest. The Prothonotary & Senior Master on a certified copy of this order being

produced to release the maturity amount of Rs.10,00,000/- (Rupees ten lacs) in favour of the petitioners.

8. Rule made absolute accordingly. No order as to costs.

(F.I. REBELLO, J.)

(ANOOP V. MOHTA,J.)